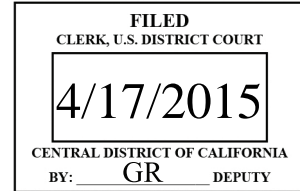


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Attorney for Plaintiff



**UNITED STATES DISTRICT COURT,
IN AND FOR THE CENTRAL DISTRICT OF CALIFORNIA**

BRAVADO INTERNATIONAL
GROUP MERCHANDISING
SERVICES, INC.,

Plaintiff,

v.

SEAN BROIHIER AND ASSOCIATES
LLC d/b/a FINE ART AMERICA and
GRAPHIK DIMENSIONS, LTD.,

Defendants.

Case No. 2:14-cv-03375 MWF-CW

[PROPOSED]
PROTECTIVE ORDER

The parties, having stipulated to the entry of a protective order;

IT IS HEREBY ORDERED THAT:

1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted.

1 Accordingly, the parties hereby stipulate to and petition the Court to enter the following
2 Stipulated Protective Order. The parties acknowledge that this Order does not confer
3 blanket protections on all disclosures or responses to discovery and that the protection it
4 affords from public disclosure and use extends only to the limited information or items
5 that are entitled to confidential treatment under the applicable legal principles. The
6 parties further acknowledge, as set forth in Section 12.3 below, that this Stipulated
7 Protective Order does not entitle them to file confidential information under seal; Civil
8 Local Rule 79-5 sets forth the procedures that must be followed and the standards that
9 will be applied when a party seeks permission from the court to file material under seal.

10
11 B. GOOD CAUSE STATEMENT

12 This action is likely to involve trade secrets, customer and pricing lists, and other
13 valuable research, development, commercial, financial, technical, and/or proprietary
14 information for which special protection from public disclosure and from use for any
15 purpose other than prosecution of this action is warranted. Such confidential and
16 proprietary materials and information consist of, among other things, confidential
17 business or financial information, information regarding confidential business practices
18 or other confidential research, development, or commercial information (including
19 information implicating privacy rights of third parties), information otherwise generally
20 unavailable to the public, or which may be privileged or otherwise protected from
21 disclosure under state or federal statutes, court rules, case decisions, or common law.
22 Accordingly, to expedite the flow of discovery materials, to adequately protect
23 information the parties are entitled to keep confidential, to ensure that the parties are
24 permitted reasonable necessary uses of such material in preparation for and in the
25 conduct of trial, to address their handling at the end of the litigation, and to serve the
26 ends of justice, a protective order for such information is justified in this matter. It is
27 the intent of the parties that information will not be designated as confidential for
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1 tactical reasons and that nothing be so designated without a good faith belief that it has
2 been maintained in a confidential, non-public manner, and there is good cause why it
3 should not be part of the public record of this case.

4
5 **2. DEFINITIONS**

6 **2.1 Action:** Bravado International Group Merchandising Services, Inc. v. Sean
7 Broihier and Associates LLC et al, Civil Action No. 2:14-cv-03375.

8 **2.2 Challenging Party:** a Party or Non-Party that challenges the designation of
9 information or items under this Order.

10 **2.3 “CONFIDENTIAL” Information or Items:** information (regardless of how
11 it is generated, stored or maintained) or tangible things that qualify for protection under
12 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
13 Statement.

14 **2.4 Counsel:** Outside Counsel of Record and House Counsel (as well as their
15 support staff).

16 **2.5 Designating Party:** a Party or Non-Party that designates information or
17 items that it produces in disclosures or in responses to discovery as
18 “CONFIDENTIAL” or “CONFIDENTIAL ATTORNEYS ONLY.”

19 **2.6 Disclosure of Discovery Material:** all items or information, regardless of
20 the medium or manner in which it is generated, stored or maintained (including, among
21 other things, testimony, transcripts, and tangible things) that are produced or generated
22 in disclosures or responses to discovery in this matter.

23 **2.7 Expert:** a person with specialized knowledge or experience in a matter
24 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
25 expert witness or as a consultant in this Action.

1 2.8 House Counsel: attorneys who are employees of a party to this Action.
2 House Counsel does not include Outside Counsel of Record or any other outside
3 counsel.

4 2.9 Non-Party: any natural person, partnership, corporation, association or
5 other legal entity not named as a Party to this action.

6 2.10 Outside Counsel of Record: attorneys who are not employees of a party to
7 this Action but are retained to represent or advise a party to this Action and have
8 appeared in this Action on behalf of that party or are affiliated with a law firm which
9 has appeared on behalf of that party, and includes support staff.

10 2.11 Party: any party to this Action, including all of its officers, directors,
11 employees, consultants, retained experts and Outside Counsel of Record (and their
12 support staffs).

13 2.12 Producing Party: a Party or Non-Party that produces Disclosure of
14 Discovery Material in this Action.

15 2.13 Professional Vendors: persons or entities that provide litigation support
16 services (e.g., photocopying, videotaping, translating, preparing exhibits or
17 demonstrations and organizing, storing, or retrieving data in any form or medium) and
18 their employees and subcontractors.

19 2.14 Protected Material: any Disclosure or Discovery Material that is
20 designated as “CONFIDENTIAL” or “CONFIDENTIAL-ATTORNEYS ONLY.”

21 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
22 from a Producing Party.

23 24 3. SCOPE

25 The protections conferred by this Stipulation and Order cover not only
26 Protected Material (as defined above), but also (1) any information copied or extracted
27 from Protected Material; (2) all copies, excerpts, summaries or compilations of
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1 Protected Material; and (3) any testimony, conversations or presentations by Parties or
2 their Counsel that might reveal Protected Material.

3 Any use of Protected Material at trial shall be governed by the orders of the
4 trial judge. This Order does not govern the use of Protected Material at trial.

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6 4. DURATION

7 Even after final disposition of this litigation, the confidentiality obligations
8 imposed by this Order shall remain in effect until a Designating Party agrees otherwise
9 in writing or a court order otherwise directs. Final disposition shall be deemed to be the
10 later of (1) dismissal of all claims and defenses in this Action, with or without
11 prejudice; and (2) final judgment herein after completion and exhaustion of all appeals,
12 rehearings, remands, trial, or reviews of this Action, including the time limits for filing
13 any motions or applications for extension of time pursuant to applicable law.

14
15 5. DESIGNATING PROTECTED MATERIAL

16 5.1 Exercise of Restraint and Care in Designating Material for Protection

17 Each party or Non-Party that designates information or items for protection under this
18 Order must take care to limit any such designation to specific material that qualifies
19 under the appropriate standards. The Designating Party must designate for protection
20 only those parts of material, documents, items or oral or written communications that
21 qualify so that other portions of the materials, documents, items or communications for
22 which protection is not warranted are not swept unjustifiably within the ambit of this
23 Order.

24 Mass, indiscriminate, or routinized designations are prohibited. Designations that
25 are shown to be clearly unjustified or that have been made for an improper purpose
26 (e.g., to unnecessarily encumber the case development process or to impose
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unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations Except as otherwise provided in this Order, (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

(a) For information in documentary form (e.g., paper or electronic documents, but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix at a minimum, the legend "CONFIDENTIAL" or "CONFIDENTIAL-ATTORNEYS ONLY" (hereinafter "CONFIDENTIAL" or "CONFIDENTIAL-ATTORNEYS ONLY" legends), to each page that contains protected material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

A Party or Non-Party that makes original documents available for inspection need not designate them for protection until after the inspecting Party has indicated which documents it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed "CONFIDENTIAL" or "CONFIDENTIAL-ATTORNEYS ONLY" after the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents or portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the "CONFIDENTIAL" or "CONFIDENTIAL-ATTORNEYS ONLY" legend to each

1 page that contains Protected Material. If only a portion or portions of the material on a
 2 page qualifies for protection, the Producing Party also must clearly identify the
 3 protected portion(s) (e.g., by making appropriate markings in the margins).

4 (b) for testimony given in depositions that the Designating Party identify the
 5 Disclosure or Discovery Material on the record, before the close of the disposition all
 6 protected testimony.

7 (c) for information produced in some form other than documentary and for
 8 any other tangible items, that the Producing Party affix in a prominent place on the
 9 exterior of the container or containers in which the information is stored the legend
 10 "CONFIDENTIAL" or "CONFIDENTIAL-ATTORNEYS ONLY." If only a portion
 11 or portions of the information warrants protection, the Producing Party, to the extent
 12 practical, shall identify the protected portion(s).

13 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
 14 to designate qualified information or items does not, standing alone, waive the
 15 Designating Party's right to secure protection under this Order for such material. Upon
 16 timely correction of a designation, the Receiving Party must make reasonable efforts to
 17 assure that the material is treated in accordance with the provisions of this Order.

19 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

20 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
 21 designation of confidentiality at any time that is consistent with the Court's Scheduling
 22 Order.

23 6.2 Meet and Confer. The Challenging Party shall imitate the dispute
 24 resolutions process under Local Rule 37.1 et seq.

25 6.3 The burden of persuasion in any such challenge proceeding shall be on the
 26 Designating Party. Frivolous challenges and those made for an improper purpose (e.g.,
 27 to harass or impose unnecessary expenses and burdens on other parties) may expose the
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1 Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn
2 the confidentiality designation, all parties shall continue to afford the material in
3 question the level of protection to which it is entitled under the Producing Party's
4 designation until the Court rules on the challenge.

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6 7. ACCESS TO AND USE OF PROTECTED MATERIAL

7 7.1 Basic Principles. A Receiving Party may use Protected Material that is
8 disclosed or produced by another Party or by a Non-Party in connection with this
9 Action only for prosecuting, defending or attempting to settle this Action. Such
10 Protected Material may be disclosed only to the categories of persons and under the
11 conditions described in this Order. When the Action has been terminated, a Receiving
12 Party must comply with the provisions of section 13 below.

13 Protected Material must be stored and maintained by a Receiving Party at a
14 location and in a secure manner that ensures that access is limited to the persons
15 authorized under this Order.

16 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
17 ordered by the court or permitted in writing by the Designating Party, a Receiving Party
18 may disclose any information or item designated "CONFIDENTIAL" only to:

19 (a) the Receiving Party's Outside Counsel of Record in this Action, as well as
20 employees of said Outside Counsel of Record to whom it is reasonably necessary to
21 disclose the information for this Action;

22 (b) the officers, directors and employees (including House Counsel) of the
23 Receiving Party to whom disclosure is reasonably necessary for this Action;

24 (c) Experts (as defined in this Order) of the Receiving Party to whom
25 disclosure is reasonably necessary for this Action and who have signed the
26 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

27 (d) the court and its personnel;
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1 (e) court reporters and their staff;

2 (f) professional jury or trial consultants, mock jurors, and Professional
3 Vendors to whom disclosure is reasonable necessary for this Action and who have
4 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

5 (g) the author or recipient of a document containing the information or a
6 custodian or other persons who otherwise possessed or knew the information;

7 (h) during their depositions, witnesses and attorneys for witnesses, in the
8 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
9 requests that the witness sign the form attached as Exhibit 1 hereto; (2) they will not be
10 permitted to keep any confidential information unless they sign the “Acknowledgement
11 and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating
12 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to
13 depositions that reveal Protected Material may be separately bound by the court
14 reporter and may not be disclosed to anyone except as permitted under this Stipulated
15 Protective Order; and

16 (i) any mediator or settlement officer, and their supporting personnel,
17 mutually agreed upon by any of the parties engaged in settlement discussions.

18 7.3 Disclosure of “CONFIDENTIAL-ATTORNEYS ONLY” Information or
19 Items.

20 Unless otherwise ordered by the court or permitted in writing by the Designating
21 Party, the Outside Counsel of Record for the Receiving Party may disclose any
22 information or documents designated “CONFIDENTIAL-ATTORNEYS ONLY” to all
23 parties listed in Paragraph 7.2 above except that the Outside Counsel of Record for
24 Receiving Party shall not disclose any information or item designated as
25 “CONFIDENTIAL-ATTORNEYS ONLY” to the officers, directors and employees of
26 the Receiving Party except that said information and documents may be disclosed to
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1 House Counsel for the Receiving Party responsible for the management of the litigation
2 of this Action.

3 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
4 IN OTHER LITIGATION

5 If a party is served with a subpoena or a court order issued in other litigation that
6 compels disclosure of any information or items designated in this Action as
7 “CONFIDENTIAL” or “CONFIDENTIAL-ATTORNEYS ONLY” that Party must:

8 (a) Promptly notify in writing the Designating Party. Such notification shall
9 include a copy of the subpoena or court order;

10 (b) Promptly notify in writing the party who caused the subpoena or order to
11 issue in the other litigation that some or all of the material covered by the subpoena or
12 order is subject to this Protective Order. Such notification shall include a copy of this
13 Stipulated Protective Order; and

14 (c) Cooperate with respect to all reasonable procedures sought to be pursued
15 by the Designating Party whose Protected Material may be affected.

16 If the Designating Party timely seeks a protective order, the Party served with the
17 subpoena or court order shall not produce any information designated in this action as
18 “CONFIDENTIAL” or “CONFIDENTIAL-ATTORNEYS ONLY” before a
19 determination by the court from which the subpoena or order issued, unless the Party
20 has obtained the Designating Party’s permission. The Designating Party shall bear the
21 burden and expense of seeking protection in that court of its confidential material and
22 nothing in these provisions should be construed as authorizing or encouraging a
23 Receiving Party in this action to disobey a lawful directive from another court.
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1 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED
 2 IN THIS LITIGATION

3 (a) The terms of this Order are applicable to information produced by a Non-
 4 Party in this Action and designated as “CONFIDENTIAL” or “CONFIDENTIAL-
 5 ATTORNEYS ONLY.” Such information produced by Non-Parties in connection with
 6 this litigation is protected by the remedies and relief provided by this Order. Nothing in
 7 these provisions should be construed as prohibiting a Non-Party from seeking
 8 additional protections.

9 (b) In the event that a Party is required, by a valid discovery request, to
 10 produce a Non-Party’s confidential information in its possession, and the Party is
 11 subject to an agreement with the Non-Party not to produce the Non-Party’s confidential
 12 information, then the Party shall:

13 (1) Promptly notify in writing the Requesting Party and the Non-Party
 14 that some or all of the information requested is subject to a
 15 confidentiality agreement with a Non-Party;

16 (2) Promptly provide the Non-Party with a copy of the Stipulated
 17 Protective Order in this Action, the relevant discovery request(s), and
 18 a reasonably specific description of the information requested; and

19 (3) Make the information requested available for inspection by the Non-
 20 Party, if requested.

21 (c) If the Non-Party fails to seek a protective order from this court within 14
 22 days of receiving the notice and accompanying information, the Receiving Party may
 23 produce the Non-Party’s confidential information responsive to the discovery request.
 24 If the Non-Party timely seeks a protective order, the Receiving Party shall not produce
 25 any information in its possession or control that is subject to the confidentiality
 26 agreement with the Non-Party before determination by the court. Absent a court order
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1 to the contrary, the Non-Party shall bear the burden and expense of seeking protection
2 in this court of its Protected Material.

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4 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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6 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
7 Protected Material to any person or in any circumstance not authorized under this
8 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
9 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
10 all unauthorized copies of the Protected Material, (c) inform the person or persons to
11 whom unauthorized disclosures were made of all the terms of this Order, and (d)
12 request such person or persons to execute the “Acknowledgement and Agreement to Be
13 Bound” that is attached hereto as Exhibit A.

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15 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
16 PROTECTED MATERIAL

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18 When a Producing Party gives notice to Receiving Party that certain
19 inadvertently produced material is subject to a claim of privilege or other protection, the
20 obligations of the Receiving Parties are those set forth in Federal Rule of Civil
21 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
22 may be established in an e-discovery order that provides for production without prior
23 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
24 parties reach an agreement on the effect of disclosure of a communication or
25 information covered by the attorney-client privilege or work product protection, the
26 parties may incorporate their agreement in the stipulated protective order submitted to
27 the court.
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1 12. MISCELLANEOUS

2 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
3 person to seek its modification by the Court in the future.

4 12.2 Right to Assert Other Objections. By stipulating to the entry of this
5 Protective Order, no Party waives any right it otherwise would have to object to
6 disclosing or producing any information or item on any ground not addressed in this
7 Stipulated Protective Order. Similarly, no Party waives any right to object on any
8 ground to use in evidence of any of the material covered by this Protective Order.

9 12.3 Filing Protected Material. A Party that seeks to file under seal any
10 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
11 only be filed under seal pursuant to a court order authorizing the sealing of the specific
12 Protected Material at issue. If a Party's request to file Protected Material under seal is
13 denied by the court, then the Receiving Party may file the information in the public
14 record unless otherwise instructed by the court.

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16 13. FINAL DISPOSITION

17 After the final disposition of this Action, as defined in paragraph 4, within
18 60 days of a written request by the Designating Party, each Receiving Party must return
19 all Protected Material to the Producing Party or destroy such material. As used in this
20 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
21 summaries and any other format reproducing or capturing any of the Protected
22 Material. Whether the Protected Material is returned or destroyed, the Receiving Party
23 must submit a written certification to the Producing Party (and, if not the same person
24 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by
25 category, where appropriate) all the Protected Material that was returned or destroyed
26 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
27 compilations, summaries or any other format reproducing or capturing any of the
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1 Protected Material. Notwithstanding this provision, Counsel are entitled to retain any
2 archival copy of all pleadings, motion papers, trial depositions, and hearing transcripts,
3 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
4 work product, and consultant and expert work product, even if such materials contain
5 Protected Material. Any such archival copies that contain or constitute Protected
6 Material remain subject to this Protective Order as set forth in Section 4.
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8 14. Any violation of this Order may be punished by any and all appropriate
9 measures including, without limitation, contempt proceedings and/or monetary
10 sanctions.
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12 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.
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14 DATED: April 17, 2015
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THE HONORABLE CARLA WOEHRLER
19 United States Magistrate Judge
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